

June 9, 2023

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary Cardona:

I write to bring to your attention recent reporting that calls into question the adequacy of existing guardrails to protect the security and integrity of American institutions of higher education from the malign influence of the Chinese Communist Party (CCP) and the Chinese government.

On May 22, 2023, it was reported that the University of California, Berkeley (UC Berkeley) had been the recipient, through an extensive agreement with Tsinghua University, a state-owned and operated research university in Beijing, People's Republic of China (PRC), of \$240 million dollars since 2014.¹ To make matters worse, it is reported that none of these contracts were reported to the Department of Education, a violation of Section 117 of the Higher Education Act of 1965, which requires disclosure of any gift by a foreign source in excess of \$250,000.²

According to these reports, UC Berkeley was the recipient of these funds as a result of its joint venture with Tsinghua University to form a joint university in Shenzhen, PRC: the Tsinghua-Berkeley Shenzhen Institute (TBSI). Tsinghua University contracted to provide \$19 million to Berkeley for the project, but the majority of the funding was provided by the municipal government of Shenzhen, to the tune of \$220 million. This funding was provided for the construction, personnel, and operational expenses of the TBSI. The Shenzhen government's support first began in 2014, with a pledge of \$52 million prior to TBSI's inauguration in 2015. For nearly a decade, UC Berkeley failed to report these gifts, even as it proudly advertised this venture and the access it provided to UC Berkeley researchers. UC Berkeley also reportedly failed to report a renewal of its agreement with Tsinghua University just last year.

The longevity, scope, and origin of the funding is concerning, but what that funding provided to the Chinese is equally, if not more so, concerning from a national security perspective. A senior official at UC Berkeley allegedly noted that the "active participation" of the CCP-dominated Shenzhen government was an *advantage* to TBSI compared to American research universities. Our understanding is that three of eleven seats on the governing board of TBSI are held by CCP

¹ <https://www.thedailybeast.com/uc-berkeley-failed-to-disclose-dollar220m-tech-deal-with-china-to-us-government>

² 20 U.S.C. § 1011f

officials, 21 Chinese executives sat on TBSI's industrial advisory council, and the then-president of Tsinghua University lauded TBSI as a "university-government-industry partnership." That individual is now a member of the CCP Politburo. To reiterate, an American university was congratulated by a CCP official as being a partner with a Chinese state-controlled university, the Chinese national government, and Chinese industry—industry that is dominated by the CCP and the People's Liberation Army (PLA), and that must answer to the whims and demands of the CCP's oppressive national security apparatus. This is unconscionable.

The CCP and Chinese government received other, more tangible, benefits from its arrangement with UC Berkeley. By building research facilities in China on Shenzhen's dime, UC Berkeley researchers were able to increase their research activities in the fields of engineering, physics, biology, and other scientific disciplines. For their work as advisors, UC Berkeley faculty members received compensation in the form of fees, potentially creating a conflict of interest and providing the Chinese leverage for future exploitation. Special privileges extended to research intellectual property (IP), as well. A Chinese state-owned enterprise (Shenzhen Warranty Asset Management) was given special access to IP produced by TBSI research in exchange for serving as the industrial sponsor of Tsinghua University's original \$19 million gift. While a UC Berkeley spokesperson compared this arrangement to ones in the United States, the differences are obvious.

Finally, the special access did not end in China, but was present here in the United States, as well. Chinese academics and CCP officials were permitted special access to tour sensitive nanofabrication facilities on the UC Berkeley campus in California, facilities researching the next generation of semiconductor and advanced microelectronics production. TBSI lauded this visit as benefiting the future research work at TBSI. Decades of Chinese industrial and academic malfeasance should have educated the university about how these sensitive technologies will be ruthlessly exploited by the PRC.

Mr. Secretary, these facts are deeply concerning. From 2012-2021, UC Berkeley was the recipient of more than \$4 billion in federal research funding, with the Department of Defense, Department of Energy, National Aeronautics and Space Administration, National Science Foundation, and National Institutes of Health all major sources. While there is not yet evidence that taxpayer-funded research made its way into the labs or classrooms of TBSI, it is likely that competencies, experience, and expertise funded by the American taxpayer were present at TBSI, and thus easily accessible and exploitable by the Chinese government.

As such, I request your full and prompt response to the following questions:

1. Did UC Berkeley violate existing U.S. law with regards to the disclosure of foreign gifts?
2. If such a violation occurred, what are your intentions with regards to enforcement of 20 U.S.C. § 1011f? Specifically, will you pursue the enforcement measures at your disposal under § 1011f(f), including a recommendation to the Attorney General for civil action against UC Berkeley?

3. At any point since 2014, has the Department assessed the arrangement and funding contracts between Tsinghua University, the government of Shenzhen, and UC Berkeley?
4. Do you believe it is appropriate for United States institutions of higher education to enter into highly profitable funding contracts and research initiatives with Chinese municipal governments and state-managed universities?
5. How does the Department of Education assess national security threats to federally-funded research when United States institutions of higher education and United States-based researchers participate in joint research activities with Chinese universities?
6. Do you assess that the IP commercialization agreement between TBSI and Shenzhen Waranty Asset Management violated any applicable United States laws or regulations?
7. Do you assess that the reported presence of sanctioned Chinese commercial entities, including Huawei, ZTE, and DJI, on TBSI's industrial advisory board violated any applicable United States laws or regulations?
8. Will you commit to investigating the research activities that UC Berkeley and UC Berkeley-affiliated researchers, both faculty and students, carried out at TBSI?
9. Will you commit to investigating the role that Chinese industry played in any research conducted at TBSI by UC Berkeley-affiliated researchers, both faculty and staff, including preferential access to IP?
10. The CHIPS & Science Act of 2022 (P.L. 117-167) provided authorities to the Office of Science and Technology Policy and the National Science Foundation to promulgate rules relating to research security and protecting U.S. institutions from malign foreign talent recruitment. In light of accusations against a major United States research institution, will the Department consider rulemaking that requires greater transparency and accounting for researcher activities in joint research ventures with PRC institutions of higher education? If the Department lacks the necessary authorities to conduct such oversight, what recommendations for congressional action would you suggest?
11. What steps can the Department take to ensure that sensitive federally funded research, including by agencies and departments other than the Department of Education, are not indirectly shared with Chinese state-owned universities?

I look forward to your responses explaining what steps the Department is taking to both enforce existing law and protect the security and integrity of U.S. higher education to ensure we win in our strategic competition with China.

Thank you for your attention to this matter.

Your Friend in Service,



Todd Young
United States Senator